

ONE HUNDRED SIXTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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August 9, 2019

The Honorable Neil Chatterjee
Chairman
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Dear Chairman Chatterjee:

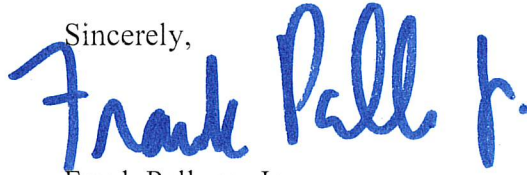
Thank you for appearing before the Subcommittee on Energy on Wednesday, June 12, 2019, at the hearing entitled, "Oversight of FERC: Ensuring Its Actions Benefit Consumers and the Environment." We appreciate the time and effort you gave as a witness before the Subcommittee.

Pursuant to Rule 3 of the Committee on Energy and Commerce, members are permitted to submit additional questions to the witnesses for their responses, which will be included in the hearing record. Attached are questions directed to you from me and other members of the Committee. In preparing your answers to these questions, please address your responses to the member who has submitted the questions using the Word document provided with this letter.

To facilitate the publication of the hearing record, please submit your responses to these questions by no later than the close of business on Friday, August 23, 2019. As previously noted, this transmittal letter and your responses will be included in the hearing record. Your written responses should be transmitted by email in the Word document provided with this letter to Omar Guzman-Toro, Policy Analyst with the Committee, at Omar@mail.house.gov. You do not need to send a paper copy of your responses to the Committee. Using the Word document provided for submitting your responses will also help maintain the proper format for incorporating your answers into the hearing record.

The Honorable Neil Chatterjee
Chairman, Federal Energy Regulatory Commission
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Thank you for your prompt attention to this request. If you need additional information or have other questions, please have your staff contact Mr. Guzman-Toro at (202) 226-9398.

Sincerely,

Frank Pallone, Jr.
Chairman

Attachment

cc: The Honorable Greg Walden
Ranking Member
Committee on Energy and Commerce

The Honorable Bobby L. Rush
Chairman
Subcommittee on Energy

The Honorable Fred Upton
Ranking Member
Subcommittee on Energy

Subcommittee on Energy
Hearing on
“Oversight of FERC: Ensuring Its Actions Benefit Consumers and the Environment”
June 12, 2019

The Honorable Neil Chatterjee
Chairman
Federal Energy Regulatory Commission

The Honorable Paul D. Tonko (D-NY)

1. Thank you for your response to my question on the ongoing distributed energy resource (DER) rulemaking. I appreciate your commitment to working towards finalizing this important rule. When I asked about the status of the DER rulemaking, you indicated that you have ample record and were working through complex legal questions.
 - a. Can you please clarify whether you need additional record to issue the final DER rule or is the current standing record sufficient?
2. While distributed energy resources and storage are playing a growing role in our electricity system, transmission remains the backbone of our electricity infrastructure. As more utility-scale renewables are developed far from centers of demand, this infrastructure will become even more necessary. But we know these projects are incredibly difficult to plan, site, permit, and build.
 - a. What in your opinion can FERC do to provide greater incentives to increase the utilization of existing transmission infrastructure through the deployment of advanced technologies and/or adoption of practices to maximize capacity and efficiency?
 - b. What are your recommendations for Congress to promote deployment of advanced transmission technologies on existing infrastructure?
3. We also know that the interregional planning process for new transmission infrastructure has not proven to be effective.

- a. What in your opinion can FERC do to improve the interregional transmission planning process?
 - b. What are your recommendations for Congress to promote a more effective interregional planning process?
 - c. What safeguards should be considered to ensure there is transparency, efficiency, and fairness in that process?
4. There are many regions of the nation with high-potential for clean energy deployment and growing interconnection queues. It is my understanding that Texas has successfully aligned incentives to encourage transmission construction to connect those areas with demand centers.
- a. What in your opinion can FERC do outside of ERCOT to ensure right-sized transmission capacity is developed to meet high-potential clean energy regions?
 - b. What are your recommendations for Congress to promote efficient development of resources in these regions?

The Honorables Joseph P. Kennedy III (D-MA) and Frank Pallone, Jr. (D-NJ)

1. While the rules greatly differ within each Regional Transmission Organization (RTO), there are significant concerns that the current rules and structures of capacity markets are making it increasingly difficult for new participants to enter the market and instead favor incumbent generators and existing participants.
 - a. Has the Commission considered why some RTOs open their membership up to more diverse consumer technology interests as opposed to others?
 - b. What can the Commission do, and what is the Commission considering, to address the limitations hampering new entrants from entering and participating in capacity markets?
2. Chairman Chatterjee, can you provide the Committee with information on the makeup of the boards of the ISOs and RTOs under your jurisdiction? More specifically, the board members' affiliation or relationships, sector by sector, including consumer, transmission owner, generation owner, marketer, public interest, environmental, academic, and others.

The Honorable Marc Veasey (D-TX)

1. Standard license Article 5 of the conditions that the Commission includes in licenses for major hydroelectric projects affecting navigable waters of the United States requires licensees to acquire and retain sufficient land or rights to use lands needed to construct, maintain, and operate their projects. In the past, the Commission has taken the position that if project operations require the acquisition of additional lands or use rights, the project's boundaries may be amended to include lands previously outside of the project boundaries. E.g., PacifiCorp, 105 FERC P61, 237 at ¶114 (2003).
 - a. Do you believe that the Commission's hydroelectric licensing jurisdiction should be limited to a project's original boundary or should the Commission retain its current authority to require a licensee to acquire sufficient land or rights to use lands to operate the project, even if those lands lie outside a project's historic boundary?
 - b. Do you believe this rule should be different for the Pensacola Hydroelectric Project, FERC No. 1494, than for other hydroelectric projects licensed by the Commission? If so, why?
2. According to the Compliance Handbook published by the Commission's Division of Hydropower Administration and Compliance, many licenses "contain conditions that require specific reservoir water levels to be continuously maintained or maintained during specified periods of time ... or target elevations within required reservoir operating bands. The purpose of these water-level requirements is to protect and enhance the recreational, scenic, and environmental resource values of a project. Non-compliance with the water-level requirements of a project reservoir could adversely affect the project's environmental integrity and quality."
 - a. Do you believe that the Commission needs the authority to prescribe reservoir water levels in its hydroelectric licenses in order to fulfill its statutory responsibilities under the Federal Power Act?

The Honorable David B. McKinley (R-WV)

1. The reliability and resilience of the bulk electric system requires support from generation and transmission assets. Consumers rely on these systems—as well as their local electric utility—for their safety, health, productivity and comfort. Given the changing nature of generation supply, how important are transmission assets to future system reliability and resilience?

- a. Is it fair to say investing in a robust transmission system is critical to support existing and new power generation regardless of fuel type?
2. I understand FERC is taking a look at incentives and returns provided to transmission owners. You noted that the decisions that FERC makes on this topic will have "impacts for decades to come." This causes me concern as, if FERC's decision is wrong, there could be negative impacts to the American public. Given the changing nature of generation projects and the critical role that transmission plays in the bulk power system, wouldn't you agree that incentivizing transmission is critical to the economic health of our Nation?
 - a. If FERC sets the incentives and returns too low, investment in the transmission system will diminish. What assurances can you give me and the American public that incentives and returns will be substantial enough to prevent this occurring?
3. I've heard the U.S. transmission grid described as one of the most sophisticated machines on Earth. Collectively, utilities across the country have thousands of engineers working on it literally every hour to maintain the reliability we expect.
 - a. How do you and the RTOs set the standards for the transmission utility performance?
 - b. Are the utilities that own transmission the lone party on the hook if something goes wrong on their systems?
4. EPA last week issued guidance to clarify the requirements of Clean Water Act section 401, which has been used to thwart FERC-approved interstate natural gas pipelines.
 - a. Do you think that EPA's guidance will assist FERC and other federal agencies in thwarting attempts to abuse the authority granted by section 401?

The Honorable Billy Long (R-MO)

1. The last time the FERC Commissioners testified before this subcommittee, I asked Chairman McIntyre why City Utilities, a public utility owned by the City of Springfield, Missouri, is paying the highest energy cost in the Southwest Power Pool. I also asked why City Utilities is paying for transmission upgrades where the costs greatly exceed the benefits received, as shown by Southwest Power Pool's own study. The study shows that City Utility's benefit ratio is around .5, lower than the threshold of .8 needed to meet the Federal Power Act's Just and Reasonable Standard. At the same time, Chairman McIntyre expressed surprise that one entity would be paying substantially more for transmission service than others and promised to look into it.

- a. Are you or any of the other commissioners aware whether a wide discrepancy in benefits to customers remains within SPP?
2. On May 10th of last year at a hearing entitled “Examining the State of ELECTRIC Transmission Infrastructure: Investment, Planning, Construction, and Alternatives,” John Twitty testified on behalf of the TAPS Group about the benefits of joint transmission ownership arrangements as an effective means of getting needed transmission facilities built. For more than a decade, FERC has reportedly expressed strong support for such arrangements, however your support has not spurred additional joint ownership arrangements. The Commission has recently initiated a notice of inquiry regarding its transmission incentives policies.
 - a. Should the Commission do more to actively promote joint ownership arrangements involving public power entities?

The Honorable Jeff Duncan (R-SC)

1. FERC held a technical conference on the Public Utilities Regulatory Policy Act, or PURPA, during the first quarter of 2016. Now I recognize FERC has faced many challenges during that time, including losing quorum for several months. The record developed just over three years ago is robust—including evidence that PURPA results in consumers paying more for inefficient investments.
 - a. Why is FERC continuing to delay action that will increase competition and benefit industrial, commercial, and residential U.S. electricity consumers?